



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,356	09/26/2003	Maria G. Castellanos	200310994-1	3043
22879 7590 09/18/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER HAIDER, FAWAAD				
ART UNIT 3627		PAPER NUMBER		
NOTIFICATION DATE 09/18/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM

mkraft@hp.com

ipa.mail@hp.com

Office Action Summary

Application No.

10/672,356

Applicant(s)

CASTELLANOS ET AL.

Examiner

FAWAAD HAIDER

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 20-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "sufficient" in claim 30 is a relative term which renders the claim indefinite. The term "sufficient" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brichta (5,864,483) in view of Underwood (6,523,027).

Re Claim 1: Brichta discloses a plurality of component SLAs in a computing system that operate to form a composite SLA (see col.6, lines 12-19, col.11, lines 32-41). However, Brichta fails to disclose a historical metric value. Underwood discloses comparing a historical metric value for each of the plurality of component SLAs to their respective baseline metric value to determine if each historical metric is sufficient to ensure that the composite SLA is met, and calculating a baseline metric value (see col.249, lines 9-28). From the teaching of Underwood, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brichta's invention with Underwood's use of a historical metric value in order to have "a reference point for historical trend analysis and a source of network portion of the present (see Underwood col.249, lines 9-16)."

Re Claims 2, 4: Brichta discloses wherein calculating the baseline metric value for each of the plurality of component SLAs further comprises calculating a baseline success rate (or baseline failure rate) for each of the plurality of component SLAs from historical data (see col.3, line 46).

Re Claims 3, 5: Underwood discloses wherein comparing the historical metric value for each of the plurality of component SLAs further comprises comparing a historical success rate (or historical failure rate) for each of the plurality of component SLAs to their respective baseline success rates (or respective baseline failure rates) to

determine if each historical success rate is greater than or equal (or each historic failure rate is less than or equal) to each respective baseline success rate (see col.249, lines 9-28).

Re Claims 20-22: Brichta discloses further comprising indicating that the composite SLA cannot be met in response to determining that any of the historical metric values is insufficient when compared to the respective baseline metric value, any of the historical success rates is less than the respective baseline success rate, and any of the historical success rates is greater than the respective baseline success rate (see Figure 3B and col.11, lines 26-64).

Re Claim 23: Brichta discloses wherein calculating the baseline metric value for each of the plurality of component SLAs is based on a desired success rate for a composite system having multiple component services associated with the corresponding component SLAs (see Figure 3B and col.11, lines 26-64).

Re Claim 24: Underwood discloses wherein calculating the baseline metric value for each of the plurality of component SLAs is further based on: calculating a combined historical failure rate of the component services; and determining a contribution of each component service to the combined historical failure, wherein each baseline metric value is based on the respective determined contribution (see col.249, lines 9-28).

5. Claims 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brichta (5,864,483) in view of Underwood (6,523,027) and further in view of McGee et al (2003/0079160).

Re Claims 25-29: McGee discloses: wherein calculating a combined metric value from historical data for sequential component SLAs that operate sequentially to contribute to the composite SLA and comparing the combined metric value to a target combined metric value to determine if the combined metric value is sufficient to meet the target combined metric value; wherein calculating the combined metric value further comprises calculating a component probability distribution function (PDF) for each sequential component SLA; wherein calculating the combined metric value further comprises computing a composite PDF from the component PDFs; wherein computing a composite PDF from the component PDFs further comprises performing a convolution of the component PDFs for each component SLA; wherein calculating the combined metric value further comprises: calculating a cumulative distribution function (CDF) from the composite PDF; determining the combined metric value by locating a value of the cumulative CDF at the target combined metric value (see [0069, 0106-0107-0148]). From the teaching of McGee, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brichta and Underwood in order to have "statistical methods that are used to generate one or more threshold for metrics (see McGee Abstract)."

6. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGee et al (2003/0079160) in view of Shay et al (2004/0153563).

Re Claim 30: McGee discloses comparing a historical metric value for each of the plurality of component SLAs to their respective baseline metric value to determine if each historical metric is sufficient to ensure that the composite SLA is met, and

discloses calculating a baseline metric value (see [0021, 0065, 0073, 0130, 0132 0227]). However, McGee fails to disclose a plurality of component SLAs. Shay discloses a plurality of component SLAs in a computing system that operate to form a composite SLA (see [0005]). From the teaching of Shay, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify McGee's invention with Shay's use of a plurality of component SLAs in order to predict "expected service levels based on measurements (see Shay Abstract)."

Re Claims 31, 33:: McGee discloses wherein calculating the baseline metric value for each of the plurality of component SLAs further comprises calculating a baseline success rate (or baseline failure rate) for each of the plurality of component SLAs from historical data (see [0065, 0073, 0130]).

Re Claims 32, 34: McGee discloses wherein comparing the historical metric value for each of the plurality of component SLAs further comprises comparing a historical success rate (or historical failure rate) for each of the plurality of component SLAs to their respective baseline success rates (or respective baseline failure rates) to determine if each historical success rate is greater than or equal (or each historic failure rate is less than or equal) to each respective baseline success rate (see [0065, 0073, 0110-0112, 0130]).

Response to Arguments

7. Applicant's arguments filed 6/3/2008 have been fully considered but they are not persuasive. The applicant argues that Underwood fails to disclose "calculating a

baseline metric value for each of a plurality of component SLAs in a computing system that operate to form a composite SLA" and "comparing a historical metric value for each of the plurality of component SLAs to their respective baseline metric value to determine if each historical metric is sufficient to ensure that the composite SLA is met." In col. 249, lines 9-28, Underwood discloses baseline analysis "as a benchmark to analyze troubleshooting data against, a reference point for historical trend analysis..." Then, in col. 250, line 62 to col.251, line 5, it talks about, "meaningful reports that describe how a metric is trending relative to its baseline... A threshold is a baseline set to a level of the metrics at which one wants to become aware of trends in the metric."

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fawaad Haider/

Examiner

Art Unit 3627

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

